

MINUTES
REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
Monday, August 15, 2005, at 9:00 a.m.
State Capitol Building, Room 303

PRESENT: Governor Brian Schweitzer, Superintendent of Public Instruction Linda McCulloch, Attorney General Mike McGrath, and State Auditor John Morrison

ABSENT: Secretary of State Brad Johnson

Motion was made by Mr. McGrath to approve the minutes from the regularly scheduled meeting of the Board of Land Commissioners held July 18, 2005. Seconded by Ms. McCulloch. Motion carried unanimously.

BUSINESS TO BE CONSIDERED

705-13 OIL AND GAS ROYALTY RATE REVIEW

Monte Mason, DNRC Minerals Management Bureau Chief, said at the last meeting we presented some discussion on royalty rate review. This arose primarily out of the concern and interest to review and determine whether or not the new leases being issued by the department on school trust lands are representative of fair market value. We discussed that at the last meeting. The Board directed us to seek public comment and we did. I will do a brief reflection on what we discussed last time, frame the issues, and then go through the comments. On your desks is a new copy of the royalty rate review, it is the same as the one at the July meeting but now includes the comments received since the pre-board packet was distributed. Also on your desks are three additional comments that came in over the weekend. There is a copy of the power point on your desk as well. There are copies of these documents for the public on the entrance desk.

We entered into this out of an interest in looking at fair market value and that arises from our obligation when we are managing school trust lands. You see that reflected in the Enabling Act, the Montana Constitution, and the state statute which recognizes that the royalty rate is to be established by the Board with a fair market value representation and a floor of 12.5%. It is good to come back and look at what a royalty is. It is a share of the gross value of production. The base royalty we are talking about is the payment to the mineral owner which, in this case, is the school trust and it completes the purchase of the oil and gas the mineral owner owns and allows the producer to take that from the property and sell it. Later we will discuss that the mineral lessees may also attach additional royalties to the lease, and that does have an affect on the working interest economics. Therefore, the mineral owner royalty is the key component we look at when deciding what is fair market value for the oil and gas produced from our leases. The current rate on state oil and gas leases is 12.5% on gas and 13% on oil, approximately 1/8. The proposed rate, or the rate we discussed in the department's report, was 1/6, or 16.67%. It is important to note that this change, if it were adopted or any change that may be adopted, would only be on new leases issued, not on existing leases. We're looking at a 1/6 royalty, an increase of 4.17 points on gas and 3.67 on oil from the current rates. To see what we're talking about, and again, this is exclusive of any additional overrides or additional royalties that might be attached to the lease, the slide shows the current situation where we have 12.5% - 13% lease which leaves what is called the working interest, the 7/8. You have approximately 1/8 royalty to the owner and the operator keeps 7/8 out of that for his operations. It is important to note that out of that he bears all the risk and the expense of developing the resource.

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Under the proposal for 1/6, you can see the amount going to the mineral owner would increase and the amount that is left for the working interest would decrease. That is the crux of the issue we're talking about here today.

An example of royalty calculation would be 10,000 barrels of oil at \$40/barrel and a 1.00 participation factor. That means this would be a well that produces solely on state land, it is not shared with anyone else. At 13.0% obviously you have the same gross production revenue, \$400,000 [10,000 x 40]. The royalty to the state would currently be \$52,000, under the new proposal, \$66,680. The net production to the lessee, the operator, goes from \$348,000 down to \$333,320. What that means in percentage is there is an additional \$14,000 coming to the state as the royalty owner, and \$14,000 less going to the working interest. One comment we received stated the increase represents a substantial increase of 28% - 33%. Based on the small portion we have as a royalty that is true, we go from 13% to 16.67%. From the operator's side it is roughly a 4% decrease.

It is important to look at royalty vs. taxes. While they work in the same manner generally, production taxes are a percentage of the gross and they have an impact of reducing the profitability to the operator, the purpose is totally different. A royalty is the payment to purchase the mineral from the owner. Taxes are payments to the government and its' citizens and production taxes are levied against all production, not just state lands. So they do have a larger impact on economics.

We have the reports we discussed last meeting, we reviewed information and looked at information from other mineral owners to see what they were doing, the overrides we're seeing out amongst the industry, and also industry economics. Other mineral owners, Wyoming and North Dakota, are adjacent to Montana and produce out of the same geologic basins. Wyoming offers theirs at 1/6 and if they get no bids they re-offer it at 1/8 and under that program 96% are leased at the higher rate. North Dakota offers them at 1/6 if there is production within a three mile radius, 1/8 if not. Based on that they are leasing more than half at the lower rate and a little less than half at the higher rate. They are not even offering the other leases at the higher rate so we don't know if people would have been taking them at the higher rate. Federal is 12.5%, they don't have an obligation to get fair market value on their lands; tribal land is in the 15.75% - 16.67% range; fee land ranges from 12.5% - 18.75%. What this sets out is our current royalty rates are at the bottom of this range.

Overriding royalty interest is an additional royalty payment carved out of the oil and gas lease and is either reserved to a lessee such as a company or an individual who first takes the lease or to some other party. It does increase the total royalty associated with the lease and it does reduce the net revenue received by the producer. It's voluntary action by those parties, and it is important to note that it documents the ability of the lease to be economic and marketable at a total royalty rate higher than the mineral owner royalty the state currently receives. We reviewed information in our files on overrides and were able to see what they were putting on leases, both state and other ownerships based on information they have to supply to us. We sampled lease assignments and found an average total royalty burden with overrides of 19.72%, which on a 12.5% royalty would be a 7% override. We sampled our communitization agreements which would also provide override information. These are information on not just state lands, but also federal and private and we saw in that particular review 17.75%. For a 1/8 lease that would be a 5.25% override. We had a similar review in 1993 and found an average of 18.57%. When we took all that together for discussion purposes today, the examples show what happens when you have a total royalty of 18.75% which basically is the average of 6.25% override on top of a 12.5% royalty. By way of comparison, the additional royalty interest we've seen on the department's proposal is

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from 13% up to 1/6 which is 3.67%; on 12.5% it is 4.17%. You can see the relative proportion of the increase to the average overrides we're seeing.

We looked at some industry economics from the Board of Oil and Gas submissions that were filed and what we are seeing are economics calculated on projects where they are showing total royalty burden in the 16% to 20% range. What this reflects is it indicates that industry is accepting and working with leases that have a total royalty burden higher than the 12.5% - 13% we're getting.

After the last meeting we solicited comments using our oil and gas mailing list that has over 900 addresses on it, primarily companies and individuals in industry but it also includes public interest groups, landowners, state and federal agencies. We put out a press release and had it on our web site and, as of last week, we received about 42 comments.

The expressed concern was on:

- Price volatility

We had comments that prices are high now but they are subject to fluctuation due to global market forces. That is certainly true. In fact, the global forces primarily relate to supply and demand issues that are way outside of Montana. We have no control over that. I pulled information from an economic review by the Department of Energy prepared earlier this year, *West Texas Intermediate Crude from 2001 to the Present*. You can see the variation from around \$20 to a spike up to \$50 per barrel. At that point, based on the economic review, the DOE put a forecast together over the first six months of this year. The upper level is what we're currently seeing. The report breaks it out by major geographic region and the old average through the 1990's as you come to 2004. What is dramatic on the demand side is the rest of the world compared to previous years. China has dramatically increased its demand for oil. Because of those supply and demand and other issues, the ability of the major producers to increase their capacity of production right now is very slim. They are operating at close to what they are capable of doing. You have supply that is in a situation where it is near the top of what it is able to give to world demand. Relative to school trust leases volatility is certainly a reality. There is more upside volatility now than there is downside, but its true you never know. We have a "percent of value royalty" clause in our lease which means it adjusts with price and the 1/6 royalty for example would produce \$10 for us if the price is \$40 but only \$5 when it is \$20. So when prices do go down a percent of value royalty rate does at least partially offset some of that drop. We do participate in that volatility. We have statutes and rules that allow overrides to be reduced or wells to be temporarily shut in if prices are low enough that they render that the production uneconomic. Within the discussion it is important to understand that the people who have written you letters and those that are here today, they understand the volatility of oil prices and the risks involved better than some of us sitting here; and my point there is they are acknowledging that risk and still the leases they are putting together have total royalty burdens as high as 20%. When you cite volatility or other issues as a reason for a lower royalty rate you have to consider that that is the custom and practice today – taking into account all those factors. We're looking at what is the fair amount to the state as the owner of the mineral relative to that total royalty burden.

- Rate of the increase

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There were several comments on how substantial the rate increase is. From what the state is getting now (13%) it is true it would be a 28% increase. When we look at the operational side it goes down by the same amount but as a percentage it is on the order of 4%.

- Impact on operations

We had comments on what this would mean for economic impact to operations on both school trust leases as well as general economics in Montana for the industry. One point that is important to play into this is that the royalty rates on school trust leases are a very minor part of the total economics of (E&P) in Montana. If we're contemplating an increase of 3.5% - 4% for a royalty rate we're only 10% of the total mineral operation out there. Further, the increase would only apply to our newly issued leases. The current leases continue to produce at the rates that are in effect. Even if, after a period of years, 25% of the state lease production was coming from new leases that were at 1/6 royalty rate the total increase to industry cost would be .08% because we are such a small part of the total. In terms of broad economic impact we are just too small of a player to have major impacts on the economics of the industry. This can be mitigated further if the overrides are not as high on leases that have a higher-based royalty rate and that is borne out by comments we had that it reduces the opportunity for third party overrides. Which means there are concerns people won't be able to economically attach as much of an additional burden to the gross revenue as they are able to do now. The question is what is reasonable from the perspective of the owner who supplies the minerals to other parties who choose to get compensation based out of a royalty contract rather than the working interest. It is also important again to note that all existing leases are unaffected.

- Information on Montana tax rates

There were a lot of comments on tax rates, on the tax rates in Montana relative to other states, and recommending school trust royalties stay at their current rates to help mitigate or offset that. Again, state production taxes apply to all production not the just 5% - 10% that comes from state school trust lands. Even if the Board were to feel it is a proper function for school trust land management to reduce school trust royalties to partially offset higher tax rates, we could reduce them to zero and it would make little difference in the whole economic picture for industry because we are too small a player. Comments identified stripper and enhanced recovery production as meriting lower rates. The industry practice is to have royalty burdens on leases as much as 20% in the state with the current tax rate structure. Section 15-36-304(1) and (2), MCA, is the tax code and shows there are incentives for various types of production. It applies to all production in the state, not just state lands. Natural gas has incentive rates for new production, newer wells completed post-1999, stripper production, and horizontal wells. For oil it's the same. There are incentives for primary recovery production, lower rates for newer production after the incentive of the first 12 months, stripper oil, and stripper well bonus production. There are a number of working interest incentives. The non-working interest is flat and steady at 14.8%. If we were a private mineral owner we would pay that, but we don't because we'd be paying ourselves. There is horizontal completion, incremental production, this is newer and expanded secondary recovery, tertiary recovery and horizontal recompletions, all these various categories of wells have incentives in place. To recap the incentives, for gas stripper production it ranges from .5% - 11%, .5% - 9% for oil; enhanced recovery, horizontal drilling is 12.5% - 9%. The industry is trying to market Montana and we share that because we don't take this discussion lightly.

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- Certain types of operations' low productivity or high-cost operations that are less profitable and therefore would merit a lower royalty rate than the standard we might impose

Stripper production is low productivity wells less than 10 – 15 barrels a day for oil. Primarily it is production from mature oil fields in Toole, Glacier, Pondera, and Liberty Counties where there are a lot of old wells that simply don't make a lot of production any more but they do make production. The people up there do their best to stay in business with those wells. The secondary operations are typically water flood operations and tertiary it could be polymer, carbon dioxide, nitrogen, the various newer technology ways to get additional oil out of the formation after the primary recovery is played out. Horizontal wells, primarily in the NE part of the state, are expensive but they are less expensive than drilling multiple wells to cover what horizontal completion would cover and they do yield a significant increase in productivity. The horizontal wells go out commonly one mile, they have gone out two miles horizontally in formation.

- Exploration and production is speculative

All leases are non-productive when they are first issued. The auctions process allows interested parties to determine how much they wish to pay to hold the lease. The royalty rate applies only to the producing lease. The holding cost for a non-productive lease is not affected by the royalty rate. Commercial production, although primarily a function of geology, is not solely a function of that. Prices and industry technology such as the horizontal completions in Richland County certainly play into what is commercial. Today's non-productive area can be tomorrow's incredible new discovery. I point that out in terms of some of the proposals for a lower royalty rate, it ends up with some inequities. Various ways to establish and separate different royalty rates, North Dakota issues their leases at 1/6 if production is within three miles, at 1/8 if it is not within three miles. When payment of royalties is triggered implicitly that lease is in a producing area. If you do it that way, you have leases producing in the same area once they become developed with different royalty rates for production. They are issuing leases at the 1/8 rate even if the party would have taken it at the higher rate. Wyoming auctions its leases at 1/6. If no bids are received they re-offer it at 1/8. Like North Dakota they can issue a lease at 1/8 even if an interested party would have taken it at 1/6 royalty. Even with this set up, Wyoming has virtually all of its leases going at 1/6. We do our leasing primarily by nomination so we have an interested party. The industry drives the interest, where they want to work in Montana, and what is of interest to them geologically. When they nominate tracts they are signifying they are willing to take the lease at that royalty rate at least for the minimum rental.

- Multiple rates

Another option suggested was different royalty rates by county. That is just another angle at trying to account for the different profitability and productivity of production across the state, such as Toole and Pondera Counties versus Richland County. As discussed, there are considerable tax exemptions already in place and the holding cost is unaffected. The royalty rate triggers only for a producing lease. One thing I added is we looked at overrides in Toole, Pondera, Liberty, and Glacier Counties alone and found that they are comparable to the broader state data. We found 194 tracts we had information on in these four counties and that average override was such that the total royalty burden added up to 18.5%, similar to what we're seeing in other areas.

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Other comments were observations that rental payments on state leases, unlike others, continue to be paid even when the lease is in production. It is true for only pre-1989 leases. Since that time our provision in our leases is similar to the rest of industry, that when a lease becomes productive those rentals paid are credited against royalty. The comments were other states have lower or no income tax. Just as with the discussion on severance tax, whatever the situation is we are seeing leases with total royalty burdens as high as 20% which at any rate is much higher than the percentage we are getting. Federal rates are at 12.5% and therefore with the land they own that plays into the going rate of fair market value. The federal government has no obligation for fair market value. Also just looking at mineral owner royalty rates, it ignores the discussion we've had on the level of overrides we are seeing. The comment was the producer would take royalty rates into consideration before acquiring leases so the rate is pertinent even though it applies only when the lease is in production. I would focus on the total royalty burden, not just the state's lease royalty at issuance, and the producer has full control to decide what degree they would burden the lease with additional overrides. They have control over putting together a lease package that doesn't have any more total royalty burden than it has currently.

Another comment was an increase in the state's rate will inhibit exploration and production on state lands. I've gone through the State of Montana in general, our particular discussion here has a very small impact on the total economics of the industry within the state. As far as state land, we believe the information we've reviewed and presented supports a higher royalty rate as reasonable and consistent with our obligation to get fair market value for the trust. While substantial overrides have become prevalent, higher school trust royalty on new leases does not require the lessees to create higher total royalty burden which would mitigate some of the potential negatives that were mentioned here.

A comment was made that Montana is already a difficult place in which to do business. They talk about uncertain tax policy. But it has been stable for a while, in fact we had comments on the stability being a positive.

MEPA compliance: we certainly have compliance but that's what we do to make sure things are done right.

Litigation: there is some, there is also some of that in other states such as Wyoming. When it comes down to the bottom line, minerals generated yearly \$24 million for the school trust beneficiaries last fiscal year, more than any other trust land activity. We don't take that for granted.

There were comments about us being anti-industry by doing this but it couldn't be farther from the truth. As far as pro- or anti-industry, it is our effort to make sure we are getting a reasonable fair share out of production that comes from state lands.

The option before the Board is whether to change the royalty rate. That is the threshold issue. If there is going to be a change contemplated then there is an issue of whether to do it now through existing administrative rule where the revisions would be concurrent with an increase by the Board or keep them at their current rates and increase them at the conclusion of rulemaking. If the Board chose to increase the rate today it would be in effect for the September 7th lease sale but it would have to happen at this month's Board meeting because of the process we go through where we have to advertise that increase to potential bidders so they know what the situation is. If we did rulemaking and made an adjustment at the conclusion of rulemaking we would probably see whatever rate was adopted going into effect at the March 2006 sale. The administrative rule, ARM 36.25.210, the key part gives the Board the option or the discretion to consider how to implement and is based on the rule language, "royalty which shall be at the following rates unless, in regard to a particular lease, the department advertises in its lease sale notices that the royalty will be at a higher rate." There was some discussion that "a particular lease" means it

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should be "a" lease, and what the department is putting forth is that a particular lease can certainly be several, and if the Board chose to adjust the rate today it would be saying the rate for the next lease sale or two, those particular leases would be at the higher rate until the administrative rules on royalties were completed.

Mr. Morrison said what is the department's recommendation on whether to go through the rulemaking process? It seems like an unusual rule that says this rule applies unless it doesn't. Is it your recommendation that the Board adopt the change today and move directly to the different rates in September or that we go through rulemaking?

Mr. Mason said the department's recommendation would be to adopt the new rate today. The language in the rule is a reflection that the Land Board is constitutionally created. Even if we didn't have this rule it would have the authority and responsibility to set the rate at fair market value. Here it specifically has language that says if the Board decides for any particular leases the rate should be higher, then it has the discretion to do that. Doing rulemaking concurrently with whatever the Board may decide would then establish that as the default rate and if the Board were to adopt it today, it would be saying it knows the rate needs to be higher to be fair market value. The Board has the discretion to do that. For these particular leases that are going out to the next lease sale or two, the Board would be coming around to where it thinks the fair market value should be and the rulemaking would be following to show that as a default.

Ms. McCulloch said since the current administrative rules set the minimum at 12.5% is it necessary to change the rules since at a minimum of 12.5% the Board has the ability to go above that and fluctuate that if the market needs that?

Mr. Mason said yes we do. Statute sets the floor at 12.5% and the Board has discretion above that under current statute. I think with the rule we have, the right thing to do is establish what the Board thinks the default rate should be in rule and provide certainty as far as what the general expectation is. But there is discretion. Basically the exemption is if the Land Board determines that leases at 12.5% and 13% isn't high enough, but not too high because we can't go any lower. If the default is higher, then this kind of provision would allow the Board to raise or lower rates on particular leases. But I wouldn't want to leave the rule the way it is now, with the Board action that indicates that our expectation as a standard royalty rate is different than this.

Mr. McGrath said I would concur with what Mr. Mason said. I think that we can go ahead and pass a motion today if that is the Board's inclination, that affects the September sale. But at the same time I think we should begin the rulemaking process so in the future we are making it clear that the floor is going to be higher than it is. We can do both.

Mr. Morrison said the purpose of the rulemaking process of course is to ensure full public airing of the issue and we've had a substantial amount of notice and comment already with the 41 comments received and 900 interested parties that were noticed. Is the department confident it notified all the key players and given them an opportunity to be heard?

Mr. Mason said I think we have. I think during the rulemaking process we will get additional comment. We have the issues framed well as far as what the pros and cons are and what the impact is to industry. But even if you saw something through rulemaking that led the Board to believe it wanted to make it different from 1/6, it can decide on a different rate.

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Ken Engelke, Homestead, said I represent myself and my children. We need more revenue for the colleges so we don't have to send our kids out of state and I was hoping you would increase this royalty to 18% for the high end where you have wells that produce 800 – 1,000 barrels per day and you can work the stripper wells and some other system for them so you don't put them out of business. But that's the main thing, for our grandkids. Hopefully you'll look into this methane deal down in the coalfield. After looking at that article in the *National Geographic*, the mess they got in Wyoming, I don't think we need that in Montana where they pump all the water and the gas out and then the coal starts on fire. That's the main thing, its for as our grandkids.

Dan Lindseth, Choteau, said I've penned a letter in the comment section and I see we have several more. But my memo goes like this, I thank you for the opportunity to comment on the proposed increase royalty rate for state oil and gas lands. The review dated July 5, 2005, did a good job explaining what a royalty is and how Montana state lands compare with other states. I also read with interest the 20 comments received and the department's response. The majority of the comments disagree with the proposed increase. Now I see there are 27 that disagree and only 11 that agree. One operator that I read that has been doing oil well business in Montana since 1992 says directly that if the increase in oil fee is enacted he will not drill on state land. This majority is primarily made up of gas and oil business people. The remaining comments are from in general current royalty recipients. Clearly if I was a royalty recipient and I had an opportunity to make more money I would really think about that also. Some of them are also gas and oil operators but they suggest more of a dual royalty similar to North Dakota or Wyoming for the less productive areas. The proposed increase in royalty rate on state land has already resulted in nominated tracts for bid in September sale be terminated or removed. This chilling effect could result in less exploration and possible production on state lands and in fact reduce the overall income. The review did not present, in my opinion, a financial analysis that takes into account loss of activity due to the royalty increase. I believe the comments to the review and the removal of tracts to bid suggests this should be done prior to enactment of this increase. I recommend this proposal to increase be postponed until financial analysis is completed. Additional comments need to be solicited and production tax component should be weighed in the decision. We need to be sure the increase will actually produce more income from state land.

Jerry Croft, President, Croft Petroleum Company, said we are past, present, and future lessees of state mineral leases. An article in the *Great Falls Tribune* in July was the first I saw the Board was considering increasing the state royalty rate and this is the same paper that reported the state had a \$300 million surplus. I believe one of the main contributors was the oil and gas tax. We know finances are not exceedingly tight with the State of Montana and we also know they are not exceedingly tight with the oil industry, because at this time we have a record high of \$64.90 for *West Texas Intermediate* on the stock exchange, inflated from \$59 a barrel in NW Montana crude in the field. The royalty payments to the state at 12.5% - 13% is also going up with commodity prices because you get a share of whatever the lessee gets. When the lessee's commodity price goes up so does the royalty price. However, when the lessee's cost of furnishing steel, concrete, electricity, fuel, and other essentials to operate the lease goes up the state's share remains at nothing. You have no risk. The royalty rate review states that out of the 6.2 million acres of state-owned oil and gas minerals, 1.3 million are currently under lease and of these 1.3 million acres, 200,000 are productive. It was estimated that the 2005 revenue from school trust minerals was \$23.6 million. The royalty rate review goes on to list the revenue rates for oil and gas leases on neighboring states as minerals, and tribes, and some private mineral leases and your review doesn't compare our lease terms or leasing processes with an eye to maximizing revenue. The lease size, the nomination process, the rent, the terms, lease segregations, these all go back to state revenue but none of

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these were ever reviewed in the royalty rate review. So how was the \$23.6 million generated? That's not in there. What portion of that came from producing leases versus non-producing leases? Of the revenue of the producing leases how much is from rental versus how much is from royalty? And of the non-producing leases how much is from the lease bonus that is offered to get the lease and how much is from the rent? The general tone of the review of the recommendation made states that you can increase the revenue by increasing royalty and in doing so directly transfer money from the oil industry, dollar for dollar, to the state and that is not the case. The owners they go collect the royalties that burden these oil and gas leases that's the difference between Monte's 18.75% and the 12.5% or 13%. Those burdens do serve a worthwhile purpose and they are carved out of the holding interest share and are not part of the state's share. That override is a hedge against risks and is a non-cash compensation for work done that is paid by the working interest owner. You will realize this if you ever sit through a drilling prospect presentation made by land men and geologists who come to you to get drilling deals done. They have geologic maps, well site maps, lease maps, well logs, well reports, production information, engineering data, cost estimates, lease recording data, and all the public data that can be described is presented. And these are the people you will be displacing, if you increase your basic royalty. These are the very people who transfer a non-productive lease to a productive one. At the lease sale when you go in Helena there is no such data available only the lease stipulations that are added to the lease. So if your aim is increasing state revenue from oil and gas leasing, raising the royalty rates is moving down the wrong end of the rifle. Rather than raising royalty rates maybe it is time you get into the other 4.9 million acres that are not leased and try and get them leased. Because if you can't lease it, you can't drill it, and if you can't drill it you can't find any production, and you can't pay any royalty. So if it takes 1.3 million acres leased to have 200,000 productive, then you have a lot of productive acres in your inventory that are not being leased.

Gail Abercrombie, Montana Petroleum Association, said we have received many comments from our members and I'd like to review a little bit of what Monte covered. It goes back to the business climate in Montana for oil and gas. When he talked about the tax rate and some of the comments that were received, in 1999 we got a competitive tax rate for Montana's oil and gas production in Montana. The gas operators in production responded to that competitive tax rate and we now are the only state the West that has increased production for two consecutive years. So it has worked. One of the corrections I'd like to make to Monte's presentation on the incentives is because of the high prices in oil and natural gas the incentives are not in effect. There is the mini stripper at three barrels per day that's lowered but all the other stripper wells' tax lower rates are gone and all of the enhanced recovery rates are off at this point in time because at \$30 per barrel those went off. With that competitive tax rate in 1999, we were hoping Montana's reputation would begin to turn around and be the state to do oil and gas business in. And that has been happening as Monte showed you in our brochure. We went to the North American Prospect Expo in Houston along with the Board of Oil and Gas to try to churn up oil and gas business for Montana. And we did, it worked. We had a lot of people stop by and say, "my goodness you're a high tax state" but we said no, not any more, come to Montana. And that is what has happened. The response was there. I am concerned at this time with this proposal that the image we've been trying to turn around in Montana could be affected by this proposal which we do not believe is necessary because, as Monte noted, the Board has the ability in rule to increase royalty rates in certain areas right now. That image out there is important because we get so much investment dollars from outside the state. We need to keep that image of Montana being open for oil and gas business out there. As you saw, the majority of comments opposed the increase, however, half of those that opposed gave suggestions to accommodate these active areas and those areas pointed out where the going rate is at a higher royalty rate. Those that were in favor of the royalty rate increase were those folks in the Richland County area. The fair market value is what our managers are talking about too. That is the fair market for those leases in the High Line and Central

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Montana at 12.5%, in the comment those operators that are in those areas 12.5% is the going rate in those areas so that is fair market for those areas. Richland County is where you've got your 18%, the higher rate, that is fair market value there. And that is what the folks that commented were suggesting, that is the way to get the fair market value. In Mr. Mason's review I did have concern when he was trying to equate North Dakota and Wyoming having higher royalty rates and because we share basins in production Montana should have higher royalty rates. Well there are lots of other basins in Montana, there is the High Line, one of the commentors suggested we need more activity in the Wheatland Basin, the Judith Basin, and Bull Mountain Basin. There are other basins that we don't share with North Dakota or Wyoming and those basins would be more appropriately at 12.5%. So we are strongly opposing the first possibility which is enacting this particular increase administratively. I don't believe it reflects well for a Board to do that, if you want to go to an increase I believe it needs to go through the full rulemaking public notice process. Yes, Mr. Mason has a very large mailing list, but still that publication and public notice through the administrative rules procedure I think is more appropriate than doing it by rule at this time. One of the things talked about was the override royalty. It got a comment regarding Wyoming where the commentor said he does keep that override royalty for his effort in putting together those packages of mineral positions and then sells it to a larger company. In Wyoming where he had some higher royalty rates from the state, the purchasing operator wouldn't pay him an override so as a result he said he was cut out of the royalty on state leases so he learned to only buy leases around the state leases. Would that be what would happen with these independent geologists that put together deals here in Montana? It seemingly could be that way. The problem with that would be it would forego bonuses and rent for speculative higher royalty rate later on. We prefer no action because we believe the Board has the opportunity to increase those royalty rates in rule now. That would preserve the image of Montana being open for oil and gas business with the selected application of higher royalty rates in those areas. Barring that we would then say go to rulemaking and that the DNRC should offer more options not just a higher overall rate and no increase in those speculative areas, let them remain at 12.5% and then if an increase is enacted the department should definitely track the response so it knows what may or may not happen.

Mr. McGrath said I would reiterate that the department's review of the legal status of the rule is appropriate, we can increase the royalty rate from 1/8 to 1/6 at the September sale and at the same time I would assume the department would then proceed with rulemaking that would make a proposal to implement that by rule. And then when we get to the spring sale we'll have gone through the rulemaking process. I assume if we vote on this that is the way we will go. The only other thing I would say is it is important to be competitive with other states from a legal perspective. We do have a trust obligation that we tend to be in court on quite a lot but I think as long as we are competitive with other states and particularly with our low tax rates we should be fine.

Ms. McCulloch said I think we've had compelling evidence with testimony from both sides of the issue. But for me as the State Superintendent of Public Instruction I couldn't find any argument that didn't support making sure that our beneficiaries, the kids in Montana K-12, shouldn't have the same support as those students in North Dakota and Wyoming at the very least. For that reason I support a motion to move this forward. I would agree with Attorney General McGrath to proceed with the rulemaking.

Mr. Morrison said while the people who sit on this Land Board are public officials interested in the overall performance of the economy and the industries within the State of Montana, our principle function within this body and in this setting is to produce revenue for the school trust. That benefits not just the schools, the beneficiaries, it also benefits the taxpayers who would otherwise have to foot the bill. The real question is whether increasing the royalty rate would decrease demand to the point where we have a decrease in revenue. It seems to me this is not an issue that we can't reexamine as we go, we can see what

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happens and what kind of affect it has on overall revenue. If the demand goes down a bit we can reassess that later.

Governor Schweitzer said when I look at issues of business and I watch how government conducts business, over the years it is always frustrated me and I try and take a common sense approach to both business and government. Nothing frustrates me more than seeing the government sell things for less money than it's worth or buy things for more money than it's worth. When we proposed some time ago that perhaps when we dispose of the items in state government we ought to look for the highest price. In fact, we may even put it on e-bay where they're getting the highest prices because this is a business and when we dispose of items the state owns, we ought to get the highest price. I was approached by the auctioneer who currently auctions this material and he said hey, are you trying to put me out of business, then I had a group of people who said hey, we're used to buying on the cheap we run our business by buying stuff from the state on the cheap. Some folks from the counties and also other groups said we're used to buying things from the state on the cheap, why can't we just continue? Well I think our job as custodians of the taxpayer's dollars is we ought to be able to sell things for the highest price and buy things for the lowest price. I don't think the State of Montana should be in the position of paying more for things or selling for less. The decision we're faced with today is reversible. If this decision we make should be that we raise the royalty, my understanding is we still have the authority to decrease it at some time in the future if we find it has made a chilling effect on the numbers of people and bids we get and that we're substantially decreasing the quantity of oil that we are developing and our revenues are going down. Also if we find that the market continues to increase and we find that private resources in Montana continue to pay higher prices and surrounding states are paying higher prices, we could look at increasing it even further in the future. Again, if the market will bear it I think we need to be there, if the market won't bear it then we shouldn't be there.

Motion was made by Ms. McCulloch to approve the oil and gas royalty rate and increase the rate on the September 7th, 2005, sale as proposed. Seconded by Mr. Morrison. Motion carried unanimously.

805-1 REINSTATEMENT OF STATE LEASE NO. 7778

Ms. Sexton said this is a lease out of Yellowstone County of Norman Miller and Tom Hart. After hearing a complaint of subleasing the department contacted Mr. Miller who admitted he had a sublease arrangement with Mr. Webber. The property has a fence in common with his private property and livestock are able to utilize the state land. Although there were no charges associated with that use, after contacting Mr. Miller he was very cooperative with the department's review of the matter. According to statute unauthorized subleasing is a violation of the lease agreement. A letter was sent to the lessee regarding this and explaining that the department would recommend the Board reinstate the lease if a penalty of \$497.70 was paid. This represents one year's annual rental for grazing on the lease. Mr. Miller promptly remitted the penalty and we recommend the Board reinstate the lease at the previous terms.

Governor Schweitzer asked if there was a precedent for doing this same activity? Has this occurred in the past? What have past Land Board's done?

Kevin Chappell, DNRC Agricultural and Grazing Bureau Chief, said this has occurred in the past, it doesn't come up very often, but it is specifically provided for in statute. In cases where we have situations where there has been a specific violation of the lease agreement, the statute provides for reinstatement of the lease up to three times the annual rental. Typically for a first time violation in the past we have levied

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one times the annual rental. The statute is there to allow reinstatement for a violation that isn't serious enough to warrant permanent cancellation. That is what we're bringing forward at this time.

Motion was made by Mr. McGrath to reinstate lease #7778. Seconded by Mr. Morrison. Motion carried unanimously.

805-2 REQUEST FOR APPROVAL – COMMUNITIZATION AGREEMENT
(Headington Oil Company)

Ms. Sexton said this is a request for approval of a communitization agreement from Headington Oil Company, and it is located in Richland County. This is a 44X-36 well from the Bakken formation oil well. The department owns 640 acres which is 50% of the communitized area and will allow the state to receive its proper share of production. We recommend approval.

Motion was made by Mr. Morrison to approve the communitization agreement. Seconded by Ms. McCulloch. Motion carried unanimously.

805-3 LAND BANKING – REQUEST FOR APPROVAL TO EVALUATE PARCELS
(Sale #216 and Sale #217)

Ms. Sexton said we do have two more parcels (one lessee) for consideration and preliminary approval. One parcel is for 960 acres in Chouteau County for preliminary approval to continue through the land banking process. These parcels were received with the initial nominations in January and are ready to move forward. The approval will raise the total parcels under consideration for sale to 25,273 acres. On this, only 20,000 acres will be sold and replacement property of similar size producing a higher rate of return purchased. The public was solicited through newspaper ads, there were letters to interested parties, FWP, sportsman's associations, rod and gun clubs, county commissioners, USF&WS, the Negotiated Rulemaking Committee members and others. We recommend the Board approve the further evaluation of 960 acres in Chouteau County via the land banking program.

Mr. McGrath said we're talking preliminary approval, I am curious about the timeline when we then get through the appraisal process and the department comes back to the Board for a final approval.

Jeanne Holmgren, DNRC Real Estate Management Bureau Chief, said we look, especially with the isolated parcels, to come back within the next six months so we can then go through the auction process. That is another 60 days prior to our ability to go ahead and sell given the rules and regulations that are out there. We do have to do a class III cultural inventory and complete that and the appraisal and come back before the Land Board. The Board then does set the minimum bid prior to going to auction on these parcels. We look at bringing significant amounts of the isolated parcels back after we have the appraisal and the Board sets the minimum bid in the next six months.

Motion was made by Mr. McGrath to approve the land banking parcel evaluations. Seconded by Mr. Morrison. Motion carried unanimously.

805-4 REQUEST FOR RIGHTS-OF-WAY APPLICATIONS

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Ms. Sexton said I want to mention at the outset that we did not include the historical rights-of-ways this month. We are postponing the informational discussion regarding historical rights-of-ways for counties because Secretary Johnson is unable to be here today. We will address the county applications next month. This month there are 36 application for rights-of-way. They are #12139 from Dry Prairie Rural Water Authority for a buried water pipeline; #12254 from James and Marlys Carroll for a private access road to a single family residence; #12967 12968, 12969, 12970, 12971, 12972, 12973, 12974, 12975, 12976, 12977, 12978, 12979, and 12980 from Triangle Telephone Corp. for buried telephone distribution lines; #13071, 13072, 13082, 13074, 13075, 13076, 13077, 13078, 13079, 13080, 13081, 13083, 13084, 13085, and 13086 from Sun River Electric for overhead powerlines; #13579 and 13580 from Noble Energy, Inc. for buried natural gas pipelines; #13586 from Flathead Electric Cooperative, Inc., for buried conduit containing three 15 kV cables; #13587 from CenturyTel of Montana for buried conduit containing a 48-strand fiber optic cable; and 13591 from Rollin and Denise Nelson for a private access road to a single family residence. I would bring your attention to the reciprocal right-of-way application from Louisiana-Pacific #13547. The state land is intermingled with Louisiana-Pacific land and in order both parties to gain legal access it is essential to exchange easements within the same tributary area. The state has kept tabs on the reciprocal access and the ending balance we will owe Louisiana-Pacific is \$12,589. This is for specific access for a non-exclusive easement for the purpose of constructing, reconstruction, maintaining, repairing, and using a road or road segment for lawful purposes, not public access however. We have a conflict timber sale in this area to which we need access.

Governor Schweitzer said so the Louisiana-Pacific in specific what we have as reciprocal easements is that we're granting across each other's properties?

Tom Schultz, DNRC Administrator, Trust Land Management Division, said that is correct. The L-P package is a reciprocal package where we're granting them access across us and we're getting access across them.

Governor Schweitzer said and since they are liquidating their properties in Montana, the access we are granting them would help them to develop that property for something other than timber, recreational or other items, and ours would be solely for development of timber?

Mr. Schultz said there are two things. One, we have been told there may be buyer out there and whether that would mean subdivision we are unsure at this point. Our understanding is there are two tracts that L-P would be getting access to from the state in this package. One of those tracts, L-P already has access to without the state access. The tract, the northern tract, they have access to through another landowner. The southern tract they do not have access to so they would not have access currently without going through someone else. Our goal is primarily for timber access. In terms of the rights being exchanged or reciprocated they would get all lawful purpose rights and we would get all lawful purpose rights. We would exchange similar rights and how those rights would be acted upon could be different.

Mr. Morrison moved for approval of the rights-of-way application package. Seconded by Ms. McCulloch.

Governor Schweitzer said he would like to consider further study of the L-P portion of the rights-of-way package. I come back to my experience as a private landowner and business man, when you have a neighbor who makes you an offer or there is an offer on the table, it is a good idea to take a look and see if there may be a few more dollars you might get or a little better deal. Louisiana-Pacific apparently is

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leaving the state, they are liquidating their properties, we have some conjoined properties, I think I'd like to take a closer look at that one, I am not comfortable with that one. If the Board would consider excluding that one I'd appreciate it.

Mr. Morrison said I accept that as a friendly amendment.

Mr. McGrath said to clarify what we're talking about, we would take out the exchange with L-P and reserve it for next month and the motion would go forward with the rest of the package.

A vote was taken on the amended motion. Motion carried unanimously.

805-5 TRAVELERS' REST ACQUISITION—FWP

Doug Monger, FWP Administrator for the Parks Division, said I bring today a request for final approval for an acquisition of 4.5 acres at Travelers' Rest State Park. FWP has the authority to acquire properties at less than 100 acres and less than \$1,000 without Land Board approval, however, this acquisition is \$315,000 so we are asking approval. Travelers' Rest State Park is located south of Missoula near the community of Lolo. It is one of our newer state parks and was originally acquired through a donation of 15 acres in March 2001. Subsequent to that time, we've accepted other donations and acquired other properties at the park. The parcel today was actually acquired by a "Friends" organization, Travelers' Rest Preservation and Historical Association. This is the organization, termed TRPHA, that operates Travelers' Rest State Park for the state. State Parks owns the underlying property and TRPHA does the daily management of the park, it is a very friendly relationship. TRPHA has acquired this property and they desire to sell it to the state and they are going to sell it for approximately ½ of the appraised value, \$155,000. FWP will use federal land and water conservation funds to acquire the property. The donated value of the property, the remaining value donated by TRPHA will be used as a match for the land and water conservation fund. Normally that would be the end of the story, but this one goes on. A spin to this particular acquisition is TRPHA, if this sale is approved today, will use the proceeds from the sale to acquire a pedestrian bridge to cross Lolo Creek. It is about a \$200,000 bridge. They will acquire the bridge and then install it in the park and then donate the bridge and its accretions to the state as part of our possession as well. So, we will acquire property, they will use the money to acquire a bridge and we will acquire that as well.

Governor Schweitzer said in almost all deals associated with various winners and losers, I am finding this one is a win-win situation. Can you tell us any potential liability the state may have?

Mr. Monger said I don't believe there are any potential liabilities. It is actually a triple win-win situation. The public wins as well. This 4.5 acre property is immediately adjoining them to the state park so visitors to the park win as well as having this part of the recreational and historic property. He invited the Board to attend the celebration and commemorative event that is going to occur at Travelers' Rest over the Labor Day weekend. It will be a four-day event and the final stop of the National Park Service's Corps II displays in Montana for 2005.

Motion was made by Ms. McCulloch to approve the Travelers' Rest acquisition. Seconded by Mr. McGrath. Motion carried unanimously.

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PUBLIC COMMENTS:

Kathy Hope, Busby, said my project is the Three C's. I am asking the state for a parcel of land in Decker, Montana, to build a bar, café, and casino on. Its actually on S36 T9 R39. Three C's has sent out a pamphlet that had the description of the land. There is nothing out there at Decker, no recreation other than parks. The people out there need something and my proposal is to ask for a section of that land. I understand the state can take part of that land for other than grazing. That is what we're asking for.

Mr. Morrison said what kind of support do you have from the community?

Ms. Hope said I have quite a lot of support, we have a petition out and I have 105 signatures on it. Big Horn County Commissioners have written two letters of support, the surrounding areas for the ranchers, both coal mines, Decker and Spring Creek, have supported me on this. The methane, I visited with a man in Sheridan who has a drilling operation on that state land and the employees have no where to go when they get off work. I have a lot of support from that area.

Mr. Morrison asked what is your timetable? When would you like to do this?

Ms. Hope said yesterday. I have been working on Three C's for quite a while.

Mr. Morrison said you got your financing all lined up and you have people ready to build and all that?

Ms. Hope said yes. I do.

Mr. Morrison said have you looked at any other real estate as a location?

Ms. Hope said yes I have. There isn't enough at Decker. I approached Decker Coal Mine on selling parcels of land and one gentleman was for it but when he took it to the Board he said if we do that with this being a coal mine that is well into production, we will have to set off other parcels and he said we don't want to get into that. I asked Consolidation Coal for a parcel of land and I sent a bid in. They said they liked my bid but rejected it. I don't know why. Consolidation Coal owns a ranch and they are drilling methane on it but other than that they are not doing anything.

Mr. Morrison said what you're proposing is to lease the land on which to build this?

Ms. Hope said lease, yes. I have mineral rights on Otter that I would trade.

Mr. Morrison said it is part of Section 36?

Ms. Hope said yes. Section 36, T9 R39E.

Governor Schweitzer said is there coal resources under Section 36? And if so, who owns them?

Mr. Mason said it is probably the state. I will have to do some checking.

Mr. McGrath said according to the letter sent from the department on July 25, 2005, to Ms. Hope, Consolidation Coal was the mineral lessee.

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Grace Bates, Manhattan, said I thank you for permitting me to make a statement. We have farmed on state land as well as on private land for over 100 years with five generations of the Bates family. Maybe some of you remember me, I was a Constitutional Delegate to the Montana Constitution in 1972. I want to tell you a little bit about this farm, and then we'll get to our problem. First, my husband's parents came to Montana in 1909 to the old log house, Section 16, T1S R3E. The land had been farmed since the 1890's. The Bates purchased the land and in 1911 and they had a deep well drilled. Water had been hauled across the land for four miles until the well was drilled. A windmill was used to pump the water for over 75 years. Electricity was not available until 1940. In 1911 a large log house was built, my husband Avery was born in the log house that year. He was the first born in the log house. The depression years of the 1930's and the dry years meant no crops. The small amount of wheat that was raised some of it was sold, a lot of it was sold for 25¢ a bushel. The years of drought, grasshoppers, cutworms and hail took their toll. The Bates lost their land to the state due to taxes. Since that time the farm has been leased from the state. In the 1950's the Bates replaced the log house with a small home, a large machine shed was also built. Farmers and ranchers are Montana's top industry and they always say next year will be a better year, hopefully. It cost the family a lot of money to build the granary and they continue to pay for the upkeep and improvements. But they don't own the buildings. However, they must pay taxes for the buildings. My request to the Board is to allow farmers to purchase their building sites so they can own their own homes which has cost them a lot of money through the years. The older Bates passed away in the 1960's and my husband continued farming for a total of 60 years. My son spent many years farming too, now his son, my grandson, is farming his place. I would like to take this time to introduce you to my grandson, Dan.

Dan Bates, Manhattan, said first of all, farming today is getting tougher. The price of a barrel of crude oil used to be about the same price as a bushel of wheat, now the price of one gallon diesel is about the price of a bushel of wheat and that is if you have decent protein without it being bleached out. Fertilizer and equipment prices have also increased at about the same inflationary rate. There are many challenges to farming on state land besides the obvious previously stated reasons. When leases come up for bid, you can have your rate bid up higher by your neighbors. This happened to my father at the last renewal and the person that bid the rate up filed bankruptcy the same year. So here I am stuck with the high rental payment. If you have livestock, horses and cattle, on the farm it's a necessity to live there to keep an eye on things. You can't live in town and drive 20 miles at 2 a.m. to see if something is calving out. The state did give me a 25-year lease on the homesite which I am very grateful for. But unfortunately when I went to my banker he said that means absolutely nothing to me. Your house, the machine shed, the grain bin, the barns means absolutely zero to me because it is not tied to the land. Basically my house loan is a signature loan and my interest rate is almost double of what I could get through a conventional home loan. I have excellent credit but I can't get the cheaper loan. Where it comes down to a problem for both the school trust and myself is grain storage. The rural railroad tracks have been pulled up out of many parts of Montana and the result is grain elevators have closed down. The elevators that are operating do not have a sufficient number of grain cars. The two closest grain elevators to our farming operation have closed down. The last remaining elevator is quickly filled. Last year was a prime example of that. The yields in the Gallatin Valley were excellent and the grain elevators filled quickly and I had to modify my machine shed, take all my machines outside in the weather to store grain. I will have to do this again this year. Even with that, I had a lot of grain standing in the field that was getting rain and bleached out and the protein knocked out of it. I not only had to store my share but I also had to store the state's share for the grain which I did not get compensated for. By the time the elevator got enough grain cars in so I could finish harvesting, the grain had taken a tough toll in the wet fall. The state's share of the grain only received \$2.00/bushel and that was for hard red spring wheat which at that time for good grain was almost \$4.00/bushel. Some of my grain was worth less than \$1.00/bushel because of the damage resulting from

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the rain. I was not required to sell the state's share, I could have just dumped it on the ground and then hauled it. It would have been worthless because of all the rain because the elevator doesn't have outside storage or actual physical space to put it in. I felt the right thing to do was to store it anyway. The obvious fix for this would be to build more grain bins and I would love to do that, however, the bank will not finance grain bins on state land. So not only do I lose but the state education fund suffers as well. What is good for me can benefit them too. Residing on the state land we are subject to constant changes in lessees, we are unable to get a conventional house loan even with a 25-year lease agreement, thus it makes it extremely difficult to make home repair and upgrades. For example, my parent's house is in need of insulation and roof repair. Yet because the house is not tied to the land they cannot get a home improvement loan even though they don't owe one cent on the house. Our own house is subject to a variable loan rate that we're trying to get locked in but every bank I go to says we can do it with your credit rating and when I come back in three weeks time, they say no cannot do it. The barns, granary, and everything there is basically worthless. How can a guy keep farming with inflation? Last year I got over 60 bushels an acre, this year I'll get at least 60 or maybe 70 but you have to have cutting edge technology. You have to built grain storage and finance the operation. If you don't have those tools your production goes down. If my production goes down, unfortunately so does the school's share. Basically I am asking to have the opportunity to buy the land at the fair market value.

Mr. McGrath asked if any of the Bates applied to nominate this parcel to go through land banking process?

Ms. Holmgren said no not to my knowledge.

Mr. McGrath asked if the department would be willing to explain to them how that works?

Ms. Holmgren replied yes. I'd be happy to.

Ms. Sexton said we will get in touch with them today.

Governor Schweitzer said there is a process you go through the DNRC and that ultimately makes the list.

Mr. Bates said the only problem with that is on that last House Bill was passed, when the DNRC made the stipulation on how they would enact selling the parcels and public access sites, they specifically put in there no homesites will be sold.

Mr. McGrath said we have sold homesite in the past, the Mandeville one. We will look into that.

Mr. Bates said I've asked my local DNRC guy that is retired now, I asked him can I go to the Land Board meeting and he wouldn't even tell me when they meet and said I couldn't get on the agenda.

Governor Schweitzer said count on this, DNRC will be in contact with you on this.

Ms. McCulloch said I am curious is this very prevalent? Maybe you could fill in the Board staffers on this issue.

Mr. Schultz said we have about 850-900 homesites across the state. The ones in Western Montana are primarily cabinsites you see along the lakes, we also have a fair amount in Eastern Montana that are on ranches. The ones in Eastern Montana are primarily minimum lease rent of \$250 per year on a house, and

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typically on the Western side of the divide they are at 5% of appraised value for cabinsites. We went through rulemaking for that. In the issue of people wanting to buy their homesite or lease them, most folks would prefer to buy a homesite. Cabinsites on the lake, everybody wants to buy them all the time. We get more revenue off the cabinsites than anything else we do per acre in terms of 5% of appraised value. Homesites in Eastern Montana, and in Manhattan, my guess is they are paying more than the \$250 per year because Manhattan is a growing area. Its not like it is in Scobey. So we do have 850 of these across the state. In Western Montana they are typically the lake side areas. There is nothing wrong with Scobey, I am just identifying that there is a difference in land value between Scobey and Manhattan.

Ms. Sexton said we will give information to the staffers for the next meeting. Also at the September meeting we will be approving the cash leases and historical rights-of-way easements. We will also have an opinion on the voting requirements for the Board. We probably need to establish a policy regarding that in the next few months.

Governor Schweitzer said the Land Board is blessed by not only having a great attorney, but the Attorney General and from time to time he briefs us on matters the Supreme Court has decided. Here is an opportunity to have that briefing.

Mr. McGrath said this is just very briefly. First of all I want to thank Ms. Bates for her service to Montana. We deal with the Constitution every day and I never cease to appreciate the work that was done. We had an opinion from the Montana Supreme Court on MonTRUST case and if you haven't had a chance to look at it, I have copies. The 4-3 decision was a tight one, the issue was one of the Superintendent's proposal on the school funding that went through the 2003 legislative session. The court upheld that process so we will be able to proceed with continuing with that process.

Motion was made by Mr. Morrison to adjourn. Seconded by Ms. McCulloch.